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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,452	04/04/2001	Raleigh J. Jensen	ACE106.02	8028
7590	10/29/2003		EXAMINER	
Joseph W. Holland P.O. Box 1840 Boise, ID 83701-1840			DEXTER, CLARK F	
			ART UNIT	PAPER NUMBER
			3724	
			DATE MAILED: 10/29/2003	66

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
09/826,452

Applicant(s)

Jensen

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Aug 18, 2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-9 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-9 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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## DETAILED ACTION

1. The amendment filed August 18, 2003 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hecker, pn 1,695,761.

Hecker discloses a cutting head assembly with every structural limitation of the claimed invention including a first head member (e.g., 10,11) including a first set of returns (e.g., the notched areas of 10), wherein the first head member is adjustably connected to a second head member (e.g., 2, 3, 4) including a second set of returns (e.g., the notched areas of 4); a cutting member (e.g., 9) having a first end, a second end, a length and a width, wherein the first end and the second end are secured to the cutting head and the length of the cutting member is positioned about the first and second sets of returns in a serpentine configuration, and wherein a leg of the cutting member extends across an aperture formed through the cutting head; and a cutting

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member tensioning device (e.g., 13, 14) disposed between and adjustably engaging the first head member (e.g., portion 10 of the first head member) and the second head member (e.g., portion 3 of the second head member).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hecker, pn 1,695,761, in view of Stuart, pn 1,868,401.

Hecker lacks each set of returns having a height substantially equal to a width of the cutting member. Stuart discloses a cutting assembly with such a cutting member support configuration for providing a desired cutting operation; for example, the cutting support configuration of Stuart provides for the cutting members to be disposed substantially in the same plane across the aperture. Therefore, it would have been obvious to one having ordinary skill in the art to provide the cutting member support configuration of Stuart for the obvious benefits including that described above.

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6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hecker, pn 1,695,761 in view of Boos, pn 690,512.

Hecker discloses a cutting head assembly with almost every structural limitation of the claimed invention including a first head member (e.g., 10,11) including a first set of returns (e.g., the notched areas of 10), wherein the first head member is adjustably connected to a second head member (e.g., 2, 3, 4) including a second set of returns (e.g., the notched areas of 4); a cutting member (e.g., 9) having a first end, a second end, a length and a width, wherein the first end and the second end are secured to the cutting head and the length of the cutting member is positioned about the first and second sets of returns in a serpentine configuration, and wherein a leg of the cutting member extends across an aperture formed through the cutting head; and a cutting member tensioning device (e.g., 13, 14) disposed between and adjustably engaging the first head member (e.g., portion 10 of the first head member) and the second head member (e.g., portion 3 of the second head member).

Hecker lacks only the specific cutting member configuration as well as the specific dimensions thereof. However, the Examiner takes Official notice that such cutters are old and well known in the art, particularly in the food cutting art and provide various well known benefits including providing a more rigid cutter that provides for a better, more stable cutting action. Boos provides one example of such a cutter (it is noted that in Boos, each set of returns has a height substantially equal to a width of the cutting member as set forth in claim 3). Therefore, it would have been obvious to one having ordinary skill in the art to replace the wire cutter of

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Hecker with a wider cutter such as that disclosed by Boos for the well known benefits including those described above.

Regarding claim 2, Hecker discloses tensioning screws (e.g., 13) but lacks the tensioning screws threadedly engaging the head members. However, the Examiner takes Official notice that such screw configurations are old and well known in the art and provide various known benefits such as providing for a reduction in parts and a simpler construction. Therefore, it would have been obvious to one having ordinary skill in the art to replace the screw configuration of Hecker with such a configuration wherein the tensioning screws threadedly engaging the head members (for example, by eliminating the wing nut 14, reversing the screw 13, providing threads in the corresponding holes of member 10, and threadedly engaging the screws into the holes) for the well known benefits including that described above.

#### *Response to Arguments*

7. Applicant's arguments filed August 18, 2003 with respect to claims 1-7 have been considered but are moot in view of the new grounds of rejection. Regarding claim 8, the limitations argued in the paragraph bridging pages 8 and 9 of the amendment, specifically "a cutting member formed of a strip of material including a width greater than the thickness of the cutting member" are not found in claim 8. Further, it is noted that a specific reference to claim 9 was inadvertently omitted from the last Office action. However, claim 9 sets forth the same

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subject matter as claim 3 and it is clear that claim 9 should have been listed in the rejection to claim 3.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers Technology Center 3700 are: after-final responses - (703)872-9303; other formal/official papers - (703)872-9306. The fax number for informal/draft papers - (703)305-9835.



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cf  
October 28, 2003